IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

WP(C).No. 19454 of 2006(N)

PETITIONER:
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1. ANNAMMA MATHAI, D/O. LATE MR.MATHAI,
AGED 70 YEARS, IDAKKARA HOUSE, KOOVAPPARA,
KUTTAMPUZHA, ERNAKULAM DISTRICT.

2. BENNY, -DO-

BY ADV. SRI.RAJU K.MATHEWS

RESPONDENTS:
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1. THE DIVISIONAL FOREST OFFICER,
MALAYATTOR DIVISION, KODANADU.

2. THE FOREST RANGE OFFICER, KUTTAMPUZHA.

BY GOVERNMENT PLEADER (FOREST) SUSHEELA BHAT
SMT.SUSEELA R.BHAT, SPL. G.P.FOR FOREST

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

W.P.(C)No.19454 OF 2006

Dated this the 17th day of January, 2007

J U D G M E N T

Heard counsel for the petitioner and Special Government Pleader for Forest Department. Petitioner was assigned some land in which Government reserved right over a teak tree. When the tree became very old and partly damaged, petitioner offered to purchase the same. The Divisional Forest Officer valued the tree inclusive of tax at Rs. 3,34,417/-. Petitioner remitted the amount by Ext.P1 and cut down the tree. However the forest department cancelled the offer to sell the tree and ordered refund of amount deposited by the petitioner. When writ petition was filed, this court directed valuation of the timber by Kerala Forest Research Institute. The valuation report prepared by Dr. U.N.Nandakumar, Scientist E1 (Silviculture) is produced in Court and I have gone through the valuation report and watched the CD produced on computer screen.

2. Heard counsel for the petitioner and Special Government Pleader for Forest Department.

3. The highest value assessed by the scientist is Rs. 5,38,000/- and the other two values being Rs.5,06,000/- and

Rs.3,99,000/-. It is admitted in the valuation report and is evident from the CD that the first portion of the timber from the base with 5.8 meter length is defective with big holes and only 30% is recoverable. This is well revealed from the CD showing the timber. However the balance portion is good wood and according to Government Pleader it is of high quality. It is seen that the value was fixed after into account the quality of the timber as 'B' class exported quality. Therefore, I do not find any justification to interfere with the valuation report. Petitioner has already spent some amount for cutting the tree which according to him was done after payment and on account of threat of causing danger to life and house. The defects noted in the waste portion of the tree justified urgent cutting of the tree. Even though permission was not obtained by the petitioner for cutting the tree, it is admitted that the department had accepted the payment in terms of the valuation report of the Divisional Forest Officer before cutting. Therefore, I do not find anything wrong in petitioner cutting the tree after depositing the amount demanded. Having regard to the quality of the timber revealed from the valuation report. I feel the highest value should be paid, that is, Rs. 5,38,000/-. However full market value takes in all

taxes and therefore respondents are directed to rework net cost by excluding 12.5% towards VAT and 5% towards forest development tax and recover from the petitioner cost and tax separately totalling Rs.5,38,000/-. The payment already made will be adjusted and balance will be paid by the petitioner within two weeks from today. Release orders and pass should be issued to transport the timber to the saw mill immediately on payment.

Writ petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

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